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►B REGULATION (EU) 2016/2134 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 November 2016

amending Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

(OJ L 338, 13.12.2016, p. 1)

Corrected by:

►C1 Corrigendum, OJ L 157, 20.6.2017, p. 22 (2016/2134)
►C2 Corrigendum, OJ L 302I, 28.11.2018, p. 3 (2016/2134)

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REGULATION (EU) 2016/2134 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 November 2016

amending Council Regulation (EC) No 1236/2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment

Article 1

Regulation (EC) No 1236/2005 is amended as follows:

(1) Article 1 is replaced by the following:

'Article 1

Subject matter

This Regulation lays down Union rules governing trade with third countries in goods that could be used for the purpose of capital punishment or for the purpose of torture or other cruel, inhuman or degrading treatment or punishment, and rules governing the supply of brokering services, technical assistance, training and advertising related to such goods.'

(2) Article 2 is amended as follows:

(a) Points (a), (b), (c), (d) and (e) are replaced by the following:

'(a) "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from that person or from a third person information or a confession, punishing that person for an act that either that person or a third person has committed or is suspected of having committed, or intimidating or coercing that person or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties. Capital punishment is not deemed a lawful penalty under any circumstances;

(b) "other cruel, inhuman or degrading treatment or punishment" means any act by which pain or suffering attaining a minimum level of severity, whether physical or mental, is inflicted on a person, when such pain or suffering is inflicted either by or at the instigation of, or with the consent or acquiescence of, a public official or other person acting in an official capacity. It does not, however, include pain or suffering arising only from, inherent in or incidental to, lawful penalties. Capital punishment is not deemed a lawful penalty under any circumstances;

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(c) “law enforcement authority” means any authority responsible for preventing, detecting, investigating, combating and punishing criminal offences, including, but not limited to, the police, any prosecutor, any judicial authority, any public or private prison authority and, where appropriate, any of the state security forces and military authorities;

(d) “export” means any departure of goods from the customs territory of the Union, including the departure of goods that requires a customs declaration and the departure of goods after their storage in a free zone within the meaning of Regulation (EU) No 952/2013 of the European Parliament and of the Council (*);

(e) “import” means any entry of goods into the customs territory of the Union, including temporary storage, the placing in a free zone, the placing under a special procedure and the release for free circulation within the meaning of Regulation (EU) No 952/2013;

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(*) Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).’.

(b) Points (h) and (i) are replaced by the following:

‘(h) “competent authority” means an authority of one of the Member States, as listed in Annex I, which is, in accordance with Article 8, entitled to make a decision on an application for an authorisation or to prohibit an exporter from using the Union general export authorisation;

(i) “applicant” means:

1. the exporter, in the case of exports referred to in Article 3, 5 or 7b;

2. the natural or legal person, entity or body transporting the goods within the customs territory of the Union, in the case of transit referred to in Article 4a;

3. the supplier of technical assistance, in the case of supplies of technical assistance referred to in Article 3;

4. the museum that will display the goods, in the case of imports and supplies of technical assistance referred to in Article 4; and

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5. the supplier of technical assistance or the broker, in the case of supplies of technical assistance referred to in Article 7a or brokering services referred to in Article 7e;’.

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(c) The following points are added:

‘(j) “customs territory of the Union” means the territory within the meaning of Article 4 of Regulation (EU) No 952/2013;

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(k) “brokering services” means:

(1) the negotiation or arrangement of transactions for the purchase, sale or supply of relevant goods from a third country to any other third country, or

(2) the selling or buying of relevant goods that are located in a third country for their transfer to another third country.

For the purposes of this Regulation the sole provision of ancillary services is excluded from this definition. Ancillary services are transportation, financial services, insurance or re-insurance, or general advertising or promotion;

(l) “broker” means any natural or legal person, entity or body, including a partnership, resident or established in a Member State that supplies services defined under point (k) from within the Union; any natural person having the nationality of a Member State, wherever resident, who supplies such services from within the Union; and any legal person, entity or body incorporated or constituted under the law of a Member State, wherever established, that supplies such services from within the Union;

(m) “supplier of technical assistance” means any natural or legal person, entity or body, including a partnership, resident or established in a Member State that supplies technical assistance defined under point (f) from within the Union; any natural person having the nationality of a Member State, wherever resident, who supplies such assistance from within the Union; and any legal person, entity or body incorporated or constituted under the law of a Member State, wherever established that supplies such assistance from within the Union;

(n) “exporter” means any natural or legal person entity or body, including a partnership, on whose behalf an export declaration is made, that is to say the person, entity or body, who, at the time when the export declaration is accepted, holds a contract with the consignee in the third country concerned and has the necessary power for determining the sending of the goods out of the customs territory of the Union. If no such contract has been concluded or if the holder of that contract does not act on its own behalf, the exporter means the person, entity or body who has the necessary power for determining the sending of the goods out of the customs territory of the Union. Where the benefit of a right to dispose of the goods belongs to a person, entity or body resident or established outside the Union pursuant to that contract, the exporter shall be considered to be the contracting party resident or established in the Union;

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(o) "Union General Export Authorisation" means an authorisation for exports as defined under point (d) to certain countries which is available to all exporters who respect conditions and requirements for its use as listed in Annex IIIb;

(p) "individual authorisation" means an authorisation granted to:

1. one specific exporter for exports as defined under point (d) to one end-user or consignee in a third country and covering one or more goods;

2. one specific broker for the supply of brokering services as defined under point (k)to one end-user or consignee in a third country and covering one or more goods; or

3. a natural or legal person, entity or body transporting goods within the customs territory of the Union for transit as defined under point (s);

(q) "global authorisation" means an authorisation granted to one specific exporter or broker in respect of a type of goods listed in Annex III or in Annex IIIa, which may be valid for:

1. exports as defined under point (d) to one or more specified end-users in one or more specified third countries;

2. exports as defined under point (d) to one or more specified distributors in one or more specified third countries, where the exporter is a manufacturer of goods included in point 3.2 or 3.3. of Annex III or in Section 1 of Annex IIIa;

3. the supply of brokering services related to transfers of goods which are located in a third country, to one or more specified end-users in one or more specified third countries;

4. the supply of brokering services related to transfers of goods which are located in a third country, to one or more specified distributors in one or more specified third countries, where the broker is a manufacturer of goods included in point 3.2 or 3.3. of Annex III or in Section 1 of Annex IIIa;

(r) "distributor" means an economic operator performing wholesale activities in relation to goods listed in point 3.2 or 3.3 of Annex III or in section 1 of Annex IIIa, such as procuring such goods from manufacturers or holding, supplying or exporting such goods; wholesale activities of such goods do not include procurement by either a hospital, a pharmacist or a medical professional for the sole purpose of supplying such goods to the public;

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(s) “transit” means a transport within the customs territory of the Union of non-Union goods which pass through the customs territory of the Union with a destination outside the customs territory of the Union.’

(3) In Article 3, paragraph 1 is replaced by the following:

‘1. Any export of goods listed in Annex II, shall be prohibited, irrespective of the origin of such goods.

Annex II shall comprise goods which have no practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment.

A supplier of technical assistance shall be prohibited from supplying technical assistance related to goods listed in Annex II to any person, entity or body in a third country, whether for consideration or not.’

(4) In Article 4, paragraph 1 is replaced by the following:

‘1. Any import of goods listed in Annex II, shall be prohibited, irrespective of the origin of such goods.

The acceptance by a person, entity or body in the Union of technical assistance related to goods listed in Annex II, supplied from a third country, whether for consideration or not, by any person, entity or body shall be prohibited.’

(5) The following articles are inserted:

‘Article 4a

Prohibition of transit

1. Any transit of goods listed in Annex II shall be prohibited.

2. By way of derogation from paragraph 1, the competent authority may authorise a transit of goods listed in Annex II, if it is demonstrated that, in the country of destination, such goods will be used for the exclusive purpose of public display in a museum in view of their historic significance.

Article 4b

Prohibition of brokering services

A broker shall be prohibited from supplying to any person, entity or body in a third country brokering services in relation to goods listed in Annex II, irrespective of the origin of such goods.

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Article 4c

Prohibition of training

A supplier of technical assistance or a broker shall be prohibited from supplying or offering to any person, entity or body in a third country training on the use of goods listed in Annex II.

Article 4d

Trade fairs

It shall be prohibited for any natural or legal person, entity or body, including a partnership, whether resident or established in a Member State or not, to display or offer for sale any of the goods listed in Annex II in an exhibition or fair taking place in the Union, unless it is demonstrated that, given the nature of the exhibition or fair, such display or offering for sale is neither instrumental in nor promotes the sale or supply of the relevant goods to any person, entity or body in a third country.

Article 4e

Advertising

It shall be prohibited for any natural or legal person, entity or body, including a partnership, resident or established in a Member State that sells or purchases advertising space or advertising time from within the Union, for any natural person having the nationality of a Member State that sells or purchases advertising space or advertising time from within the Union, and for any legal person, entity or body incorporated or constituted under the law of a Member State, that sells or purchases advertising space or advertising time from within the Union, to sell to or purchase from any person, entity or body in a third country advertising space in print media or on the Internet or advertising time on television or radio in relation to goods listed in Annex II.

Article 4f

National measures

1. Without prejudice to the applicable Union rules, including the prohibition of discrimination on grounds of nationality, Member States may adopt or maintain national measures restricting transportation, financial services, insurance or re-insurance, or general advertising or promotion in relation to goods listed in Annex II.

2. Member States shall notify the Commission of any measures adopted pursuant to paragraph 1. Existing measures shall be notified by 17 February 2017. New measures, amendments and repeals shall be notified before they enter into force.’

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(6) In Article 5, paragraph 1 is replaced by the following:

‘1. For any export of goods listed in Annex III, an authorisation shall be required, irrespective of the origin of such goods. However, no authorisation shall be required for goods which only pass through the customs territory of the Union, namely those which are not assigned a customs approved treatment or use other than the external transit procedure under Article 226 of Regulation (EU) No 952/2013, including storage of non-Union goods in a free zone.

Annex III shall only comprise the following goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment:

(a) goods which are primarily used for law enforcement purposes; and

(b) goods which, taking into account their design and technical features, present a material risk of use for torture or other cruel, inhuman or degrading treatment or punishment.

Annex III shall not include:

(a) firearms controlled by Regulation (EU) No 258/2012 of the European Parliament and of the Council (*);

(b) dual-use items controlled by Council Regulation (EC) No 428/2009 (**); and

(c) goods controlled in accordance with Council Common Position 2008/944/CFSP (***).

(*) Regulation (EU) No 258/2012 of the European Parliament and of the Council of 14 March 2012 implementing Article 10 of the United Nations' Protocol against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, supplementing the United Nations Convention against Transnational Organised Crime (UN Firearms Protocol), and establishing export authorisation, and import and transit measures for firearms, their parts and components and ammunition (OJ L 94, 30.3.2012, p. 1).

(**) Council Regulation (EC) No 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items (OJ L 134, 29.5.2009, p. 1).

(***) Council Common Position 2008/944/CFSP of 8 December 2008 defining common rules governing control of exports of military technology and equipment (OJ L 335, 13.12.2008, p. 99).’

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(7) Article 6 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Decisions on applications for authorisations in respect of the export of goods listed in Annex III shall be taken by the competent authorities, taking into account all relevant considerations, including in particular whether an application in respect of an essentially identical export has been dismissed by another Member State in the preceding three years and considerations about intended end-use and the risk of diversion.’

(b) the following paragraphs are added:

‘3. The following rules shall apply to the verification of the intended end-use and the risk of diversion:

3.1. If the manufacturer of goods listed in point 3.2 or 3.3 of Annex III requests an authorisation for exporting such goods to a distributor, the competent authority shall make an assessment of the contractual arrangements made by the manufacturer and the distributor and of the measures that they are taking to ensure that these goods and, if applicable, the products in which they will be incorporated will not be used for torture or other cruel, inhuman or degrading treatment or punishment.

3.2. If an authorisation is requested for exporting goods listed in point 3.2 or 3.3 of Annex III to an end-user, the competent authority may, when assessing the risk of diversion, take into account the contractual arrangements that apply and the end-use statement signed by the end-user, if such a statement is provided. If no end-use statement is provided, it shall be up to the exporter to demonstrate who will be the end-user and what use will be made of the goods. If the exporter fails to provide sufficient information on the end-user and the end-use, the competent authority shall be deemed to have reasonable grounds to believe that the goods might be used for torture or other cruel, inhuman or degrading treatment or punishment.

4. In addition to the criteria set out in paragraph 1, when assessing an application for a global authorisation, the competent authority shall take into consideration the application by the exporter of proportionate and adequate means and procedures to ensure compliance with the provisions and objectives of this Regulation and with the terms and conditions of the authorisation.’

(8) The following article is inserted:

‘Article 6a

Prohibition of transit

A natural or legal person, entity or body, including a partnership, whether resident or established in a Member State or not, shall be prohibited from executing the transit of goods listed in Annex III,

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if he, she or it knows that any part of a shipment of such goods is intended to be used for torture or other cruel, inhuman or degrading treatment or punishment in a third country.'

(9) The following article is inserted:

'Article 7a

Authorisation requirement for certain services

1. An authorisation shall be required for any supply, by a supplier of technical assistance or a broker, respectively, of one of the following services to any person, entity or body in a third country, whether for consideration or not:

(a) technical assistance related to goods listed in Annex III, irrespective of the origin of such goods; and

(b) brokering services related to goods listed in Annex III, irrespective of the origin of such goods.

2. When deciding on applications for an authorisation for the supply of brokering services concerning goods listed in Annex III, Article 6 shall apply mutatis mutandis.

When deciding on applications for an authorisation for the supply of technical assistance related to goods listed in Annex III, the criteria set out in Article 6 shall be taken into account to assess:

(a) whether the technical assistance would be supplied to a person, entity or body that might use the goods to which the technical assistance relates for torture or other cruel, inhuman or degrading treatment or punishment; and

(b) whether the technical assistance would be used to repair, develop, manufacture, test, maintain or assemble goods listed in Annex III for, or supply technical assistance to, a person, entity or body that might use the goods to which the technical assistance relates for torture or other cruel, inhuman or degrading treatment or punishment.

3. Paragraph 1 shall not apply to the supply of technical assistance, if

(a) the technical assistance is supplied to a law enforcement authority of a Member State or to military or civil personnel of a Member State as described in the first sentence of Article 5(3);

(b) the technical assistance consists of providing information that is in the public domain; or

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(c) the technical assistance is the minimum necessary for the installation, operation, maintenance or repair of those goods listed in Annex III whose export has been authorised by a competent authority in accordance with this Regulation.

4. Notwithstanding paragraph 1, a Member State may maintain a prohibition on the supply of brokering services related to leg irons, gang chains and portable electric shock devices. Where a Member State maintains such a prohibition, it shall notify the measures it has adopted to the Commission by 17 February 2017 and inform the Commission if those measures are amended or repealed.'

(10) After Article 7a, the following chapter is inserted:

'CHAPTER IIIa

Goods that could be used for the purpose of capital punishment

Article 7b

Export authorisation requirement

1. For any export of goods listed in Annex IIIa, an authorisation shall be required irrespective of the origin of such goods. However, no authorisation shall be required for goods which only pass through the customs territory of the Union, namely those which are not assigned a customs approved treatment or use other than the external transit procedure under Article 226 of Regulation (EU) No 952/2013, including storage of non-Union goods in a free zone.

Annex IIIa shall only comprise goods that could be used for the purpose of capital punishment and have been approved or actually used for capital punishment by one or more third countries that have not abolished capital punishment. It shall not include:

(a) firearms controlled by Regulation (EU) No 258/2012;

(b) dual-use items controlled by Regulation (EC) No 428/2009 and

(c) goods controlled in accordance with Common Position 2008/944/CFSP.

2. Where the export of medicinal products requires an export authorisation pursuant to this Regulation and the export is also subject to authorisation requirements in accordance with international conventions controlling narcotic drugs and psychotropic substances, such as the 1971 Convention on Psychotropic Substances, Member States may use a single procedure to carry out the obligations imposed on them by this Regulation and by the relevant convention.

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Article 7c

Criteria for granting export authorisations

1. Decisions on applications for authorisations in respect of the export of goods listed in Annex IIIa shall be taken by the competent authorities, taking into account all relevant considerations, including in particular whether an application in respect of an essentially identical export has been dismissed by another Member State in the preceding three years and considerations about intended end-use and the risk of diversion.

2. The competent authority shall not grant any authorisation when there are reasonable grounds to believe that the goods listed in Annex IIIa might be used for capital punishment in a third country.

3. The following rules shall apply to the verification of the intended end-use and the risk of diversion:

3.1. If the manufacturer of goods listed in section 1 of Annex IIIa requests an authorisation for exporting such products to a distributor, the competent authority shall make an assessment of the contractual arrangements made by the manufacturer and the distributor and of the measures that they are taking to ensure that the goods will not be used for capital punishment.

3.2. If an authorisation is requested for exporting goods listed in section 1 of Annex IIIa to an end-user, the competent authority may, when assessing the risk of diversion, take into account the contractual arrangements that apply and the end-use statement signed by the end-user, if such a statement is provided. If no end-use statement is provided, it shall be up to the exporter to demonstrate who will be the end-user and what use will be made of the goods. If the exporter fails to provide sufficient information on the end-user and the end-use, the competent authority shall be deemed to have reasonable grounds to believe that the goods might be used for capital punishment.

3.3. The Commission, in cooperation with competent authorities of the Member States, may adopt best practice guidelines on the assessment of end-use and assessing the purpose for which technical assistance would be used.

4. In addition to the criteria set out in paragraph 1, when assessing an application for a global authorisation the competent authority shall take into consideration the application by the exporter of proportionate and adequate means and procedures to ensure compliance with the provisions and objectives of this Regulation and with the terms and conditions of the authorisation.

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Article 7d

Prohibition of transit

A natural or legal person, entity or body, including a partnership, whether resident or established in a Member State or not, shall be prohibited from executing the transit of goods listed in Annex IIIa, if he, she or it knows that any part of a shipment of such goods is intended to be used for capital punishment in a third country.

Article 7e

Authorisation requirement for certain services

1. An authorisation shall be required for any supply, by a supplier of technical assistance or a broker, respectively, of one of the following services to any person, entity or body in a third country whether for consideration or not:

(a) technical assistance related to goods listed in Annex IIIa, irrespective of the origin of such goods; and

(b) brokering services related to goods listed in Annex IIIa, irrespective of the origin of such goods.

2. When deciding on applications for an authorisation for the supply of brokering services concerning goods listed in Annex IIIa Article 7c shall apply mutatis mutandis.

When deciding on applications for an authorisation for the supply of technical assistance related to goods listed in Annex IIIa the criteria set out in Article 7c shall be taken into account to assess:

(a) whether the technical assistance would be supplied to a person, entity or body that might use the goods to which the technical assistance relates for capital punishment; and

(b) whether the technical assistance would be used to repair, develop, manufacture, test, maintain or assemble goods listed in Annex IIIa for, or supply technical assistance to, a person, entity or body that might use the goods to which the technical assistance relates for capital punishment.

3. Paragraph 1 shall not apply to the supply of technical assistance, if

(a) the technical assistance consists of providing information that is in the public domain; or

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(b) the technical assistance is the minimum necessary for the installation, operation, maintenance or repair of those goods listed in Annex IIIa whose export has been authorised by a competent authority in accordance with this Regulation.'

(11) Article 8 is replaced by the following:

'Article 8

Types of authorisations and issuing authorities

1. A Union General Export Authorisation for certain exports as set out in Annex IIIb is established by this Regulation.

The competent authority of the Member State where the exporter is resident or established can prohibit the exporter from using this authorisation, if there is reasonable suspicion about the exporter's ability to comply with the terms of this authorisation or with a provision of the export control legislation.

The competent authorities of the Member States shall exchange information on all exporters deprived of the right to use the Union General Export Authorisation, unless they determine that a specific exporter will not attempt to export goods listed in Annex IIIa through another Member State. A secure and encrypted system for exchange of information shall be used for this purpose.

2. An authorisation for exports other than those referred to in paragraph 1 for which an authorisation is required under this Regulation shall be granted by the competent authority of the Member State where the exporter is resident or established, as listed in Annex I. Such authorisation may be an individual or a global authorisation, if it concerns goods listed in Annex III or in Annex IIIa. An authorisation concerning goods listed in Annex II shall be an individual authorisation.

3. An authorisation for transit of goods listed in Annex II shall be granted by the competent authority of the Member State where the natural or legal person, entity or body transporting the goods within the customs territory of the Union is resident or established, as listed in Annex I. If that person, entity or body is not resident or established in a Member State, an authorisation shall be granted by the competent authority of the Member State in which the entry of goods into the customs territory of the Union takes place. Such an authorisation shall be an individual authorisation.

4. An authorisation for imports for which an authorisation is required under this Regulation shall be granted by the competent authority of the Member State where the museum is established, as listed in Annex I. An authorisation concerning goods listed in Annex II shall be an individual authorisation.

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5. An authorisation for the supply of technical assistance related to goods listed in Annex II shall be granted by:

(a) the competent authority of the Member State where the supplier of technical assistance is resident or established, as listed in Annex I, or, if there is no such Member State, the competent authority of the Member State of which the supplier of technical assistance is a national or under whose law it has been incorporated or constituted, if the assistance is to be supplied to a museum in a third country; or

(b) the competent authority of the Member State where the museum is established, as listed in Annex I, if the assistance is to be supplied to a museum in the Union.

6. An authorisation for the supply of technical assistance related to goods listed in Annex III or in Annex IIIa shall be granted by the competent authority of the Member State where the supplier of technical assistance is resident or established, as listed in Annex I, or, if there is no such Member State, the competent authority of the Member State of which the supplier of technical assistance is a national or under whose law it has been incorporated or constituted.

7. An authorisation for the supply of brokering services related to goods listed in Annex III or in Annex IIIa shall be granted by the competent authority of the Member State where the broker is resident or established, as listed in Annex I, or, if there is no such Member State, the competent authority of the Member State of which the broker is a national or under whose law it has been incorporated or constituted. Such an authorisation shall be granted for a set quantity of specific goods moving between two or more third countries. The location of the goods in the originating third country, the end-user and its exact location shall be clearly identified.

8. Applicants shall supply the competent authority with all relevant information required for their applications for an individual or global authorisation for exports or for brokering services, for an authorisation for technical assistance, for an individual import authorisation or for an individual authorisation for transit.

As regards exports the competent authorities shall receive complete information in particular on the end-user, the country of destination and the end-use of the goods.

As regards brokering services the competent authorities shall in particular receive details of the location of the goods in the originating third country, a clear description of the goods and the quantity involved, third parties involved in the transaction, the third country of destination, the end-user in that country and its exact location.

The granting of an authorisation may be subject to an end-use statement, if appropriate.

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9. By way of derogation from paragraph 8, where a manufacturer or a manufacturer's representative is to export or to sell and transfer goods included in point 3.2 or 3.3 of Annex III or in section 1 of Annex IIIa to a distributor in a third country, the manufacturer shall provide information on the arrangements made and the measures taken to prevent the goods included in point 3.2 or 3.3 of Annex III from being used for torture or other cruel, inhuman or degrading treatment or punishment or to prevent the goods included in section 1 of Annex IIIa from being used for capital punishment, on the country of destination and, if it is available, information on the end-use and the end-users of the goods.

10. Upon request of a national preventive mechanism established under the Optional Protocol to the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the competent authorities may decide to make the information they have received from an applicant on the country of destination, the consignee, the end-use and the end-users or, where relevant, the distributor and the arrangements and measures referred to in paragraph 9, available to the requesting national preventive mechanism. The competent authorities shall hear the applicant before the information is made available and may impose restrictions on the use that can be made of the information. The competent authorities shall make their decisions in accordance with national laws and practice.

11. Member States shall process requests for individual or global authorisations within a period of time to be determined by national law or practice.'

(12) Article 9 is replaced by the following:

'Article 9

Authorisations

1. Authorisations for export, import or transit shall be issued on a form consistent with the model set out in Annex V. Authorisations concerning brokering services shall be issued on a form consistent with the model set out in Annex VI. Authorisations concerning technical assistance shall be issued on a form consistent with the model set out in Annex VII. Such authorisations shall be valid throughout the Union. The period of validity of an authorisation shall be from three to twelve months with a possible extension of up to 12 months. The period of validity of a global authorisation shall be from one year to three years with a possible extension of up to two years.

2. An authorisation for export granted in accordance with Article 6 or with Article 7c implies an authorisation for the exporter to supply technical assistance to the end-user to the extent that such assistance is necessary for the installation, operation, maintenance or repair of those goods whose export is authorised.

3. The authorisations may be issued by electronic means. The specific procedures shall be established on a national basis. Member States availing themselves of this option shall inform the Commission.

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4. Authorisations for export, import, transit, the supply of technical assistance or the supply of brokering services shall be subject to any requirements and conditions the competent authority deems appropriate.

5. The competent authorities, acting in accordance with this Regulation, may refuse to grant an authorisation and may annul, suspend, modify or revoke an authorisation which they have already granted.'

(13) In Article 10, paragraph 2 is replaced by the following:

'2. If a customs declaration is made concerning goods listed in Annex II, III or IIIa and it is confirmed that no authorisation has been granted pursuant to this Regulation for the intended export or import, the customs authorities shall detain the goods declared and shall make the exporter or importer aware of the possibility to apply for an authorisation pursuant to this Regulation. If no application for an authorisation is made within six months of the detention, or if the competent authority dismisses such an application, the customs authorities shall dispose of the detained goods in accordance with applicable national law.'

(14) Article 11 is replaced by the following:

'Article 11

Notification and consultation requirement

1. A Member State shall notify the other Member States and the Commission if its competent authorities, as listed in Annex I, take a decision dismissing an application for an authorisation under this Regulation or if they annul an authorisation they have granted. Such notification shall be made not later than 30 days following the date of the decision or annulment.

2. The competent authority shall, through diplomatic channels where required or appropriate, consult the authority or authorities which, in the preceding three years, dismissed an application for authorisation of an export, a transit, the supply of technical assistance to a person, entity or body in a third country or the supply of brokering services under this Regulation, if it receives an application concerning an export, a transit, the supply of technical assistance to a person, entity or body in a third country or the supply of brokering services involving an essentially identical transaction referred to in such earlier application and considers that an authorisation should, nevertheless, be granted.

3. If, after the consultations referred to in paragraph 2, the competent authority decides to grant an authorisation, the relevant Member State shall immediately inform the other Member States and the Commission of its decision and explain the reasons for its decision, submitting supporting information as appropriate.

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4. Where a refusal to grant an authorisation is based on a national prohibition in accordance with Article 7(1) or Article 7a(4), it shall not constitute a decision dismissing an application within the meaning of paragraph 1 of this Article.

5 All notifications required under this Article shall be made via a secure and encrypted system for exchange of information.'

(15) Article 12 is replaced by the following:

'Article 12

Amendment of Annexes

The Commission is empowered to adopt delegated acts in accordance with Article 15a, to amend Annexes I, II, III, IIIa, IIIb, IV, V, VI and VII. The data in Annex I regarding competent authorities of the Member States shall be amended on the basis of information supplied by the Member States.

Where, in the case of amendment of Annex II, III, IIIa or IIIb, imperative grounds of urgency so require, the procedure provided for in Article 15b shall apply to delegated acts adopted pursuant to this Article.'

(16) The following article is inserted:

'Article 12a

Requests for adding goods to one of the lists of goods

1. Each Member State may address a duly substantiated request to the Commission to add goods designed or marketed for law enforcement to Annex II, Annex III or Annex IIIa. Such a request shall include information on:

(a) the design and characteristics of the goods;

(b) all the purposes for which they can be used; and

(c) the international or domestic rules that would be broken if the goods were to be used for law enforcement.

When addressing its request to the Commission, the requesting Member State shall also forward that request to the other Member States.

2. The Commission may, within three months of the receipt of the request ask the requesting Member State to provide supplementary information, if it considers that the request fails to address one or more relevant points or that additional information on one or more relevant points is necessary. It shall communicate the points on which supplementary information needs to be provided. The Commission shall forward its questions to the other Member States. The other Member States may also provide the Commission with further information for the assessment of the request.

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3. If it considers that there is no need to ask for supplementary information or, where applicable, upon receipt of the supplementary information it has requested, the Commission shall within twenty weeks of the receipt of the request or the receipt of supplementary information, respectively, commence the procedure for the adoption of the requested amendment or inform the requesting Member State of the reasons for not doing so.'

(17) In Article 13, the following paragraph is inserted:

'3a. The Commission shall prepare an annual report comprised of the annual activity reports referred to in paragraph 3. That annual report shall be made publicly available.'

(18) The following article is inserted:

'Article 13a

Processing of personal data

Personal data shall be processed and exchanged in accordance with the rules laid down in Directive 95/46/EC of the European Parliament and of the Council (*) and Regulation (EC) No 45/2001 of the European Parliament and of the Council (**).

(*) Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

(**) Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).'

(19) Article 15a is replaced by the following:

'Article 15a

Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 12 shall be conferred on the Commission for a period of five years from 16 December 2016. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

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3. The delegation of power referred to in Article 12 may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making (*).

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Article 12 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

(*) OJ L 123, 12.5.2016, p. 1.'

(20) The following articles are inserted:

'Article 15b

Urgency procedure

1. Delegated acts adopted under this Article shall enter into force without delay and shall apply as long as no objection is expressed in accordance with paragraph 2. The notification of a delegated act to the European Parliament and to the Council shall state the reasons for the use of the urgency procedure.

2. Either the European Parliament or the Council may object to a delegated act in accordance with the procedure referred to in Article 15a(6). In such a case, the Commission shall repeal the act immediately following the notification of the decision to object by the European Parliament or by the Council.

Article 15c

Anti-Torture Coordination Group

1. An Anti-Torture Coordination Group chaired by a representative of the Commission shall be established. Each Member State shall appoint a representative to this group.

▼B

2. The group shall examine any questions concerning the application of this Regulation, including, without limitation, the exchange of information on administrative practices and any questions which may be raised either by the chair or by a representative of a Member State.

3. The Anti-Torture Coordination Group may, whenever it considers it to be necessary, consult exporters, brokers, suppliers of technical assistance and other relevant stakeholders concerned by this Regulation.

4. The Commission shall submit an annual report in writing to the European Parliament on the activities, examinations and consultations of the Anti-Torture Coordination Group.

The annual report shall be drawn up paying due regard to the need not to undermine the commercial interests of natural or legal persons. The discussions in the group shall be kept confidential.

Article 15d

Review

1. By 31 July 2020, and every five years thereafter, the Commission shall review the implementation of this Regulation and present a comprehensive implementation and impact assessment report to the European Parliament and to the Council, which may include proposals for its amendment. The review will assess the need to include the activities of EU nationals abroad. Member States shall provide to the Commission all appropriate information for the preparation of the report.

2. Special sections of the report shall deal with:

(a) the Anti-Torture Coordination Group and its activities. The report shall be drawn up paying due regard to the need not to undermine the commercial interests of natural or legal persons. The discussions in the group shall be kept confidential; and

(b) information on the measures taken by the Member States pursuant to Article 17(1) and notified to the Commission pursuant to Article 17(2).'

(21) In Article 18, paragraph 1 is replaced by the following:

'1. This Regulation shall have the same territorial scope of application as the Treaties, except for the first subparagraph of Article 3(1), the first subparagraph of Article 4(1), Articles 4a, 5, 6a, 7, 7b and 7d, Article 8(1) to (4) and Article 10, which shall apply to:

— the customs territory of the Union,

— the Spanish territories of Ceuta and Melilla,

— the German territory of Helgoland.'

▼B

(22) The Annexes are amended as follows:

(a) In Annex II, item 1.1. is replaced by the following:

CN code	Description
‘ex 4421 90 97 ex 8208 90 00	1.1. Gallows, guillotines and blades for guillotines’

(b) In Annex III, sections 4 and 5 are deleted.

(c) A new Annex IIIa, the text of which is set out in Annex I to this Regulation, is inserted.

(d) A new Annex IIIb, the text of which is set out in Annex II to this Regulation, is inserted.

(e) A new Annex VI, the text of which is set out in Annex III to this Regulation, is added.

(f) A new Annex VII, the text of which is set out in Annex IV to this Regulation, is added.

Article 2

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Union*.

Point 9 of Article 1 and, to the extent that it inserts Article 7e, point 10 of Article 1 shall be applicable from 17 March 2017.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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ANNEX I

'ANNEX IIIa

GOODS THAT COULD BE USED FOR THE PURPOSE OF CAPITAL PUNISHMENT REFERRED TO IN ARTICLE 7b

CN code	Description
	1. Products which could be used for the execution of human beings by means of lethal injection, as follows:
	1.1. Short and intermediate acting barbiturate anaesthetic agents including, but not limited to:
ex 2933 53 90 [(a) to (f)]	(a) amobarbital (CAS RN 57-43-2)
ex 2933 59 95 [(g) and (h)]	(b) amobarbital sodium salt (CAS RN 64-43-7)
	(c) pentobarbital (CAS RN 76-74-4)
	(d) pentobarbital sodium salt (CAS 57-33-0)
	(e) secobarbital (CAS RN 76-73-3)
	(f) secobarbital sodium salt (CAS RN 309-43-3)
	(g) thiopental (CAS RN 76-75-5)
	(h) thiopental sodium salt (CAS RN 71-73-8), also known as thiopentone sodium
ex 3003 90 00	Note:
ex 3004 90 00	This item also controls products containing one of the anaesthetic agents listed under short or intermediate acting barbiturate anaesthetic agents.'
ex 3824 90 96	

▼B

ANNEX II

‘ANNEX IIIb

UNION GENERAL EXPORT AUTHORISATION EU GEA 1236/2005

Part 1 — Goods

This general export authorisation covers the goods listed in any entry in Annex IIIa to Council Regulation (EC) No 1236/2005 (*).

It also covers supplies of technical assistance to the end-user to the extent that such assistance is necessary for the installation, operation, maintenance or repair of those goods whose export is authorised, if such assistance is provided by the exporter.

Part 2 — Destinations

An export authorisation under Regulation (EC) No 1236/2005 is not required for supplies to a country or territory that is part of the customs territory of the Union, which for the purpose of this Regulation includes Ceuta, Helgoland and Melilla (Article 18(2)).

This general export authorisation is valid throughout the Union for exports to the following destinations:

Danish territories not included in the customs territory:

— Faroe Islands

— Greenland

French territories not included in the customs territory:

— French Polynesia,

— French Southern and Antarctic Territories,

— New Caledonia and Dependencies,

— Saint-Barthélemy,

— Saint Pierre and Miquelon,

— Wallis and Futuna Islands

Dutch territories not included in the customs territory:

— Aruba,

— Bonaire,

— Curaçao,

— Saba,

— Sint Eustatius,

— Sint Maarten

Relevant British territories not included in the customs territory:

— Anguilla,

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— Bermuda,

— Falkland Islands,

— Gibraltar,

— Montserrat,

— Saint Helena and Dependencies,

— South Georgia and the South Sandwich Islands,

— Turks and Caicos Islands

Albania

Andorra

Argentina

Australia

Benin

Bolivia

Bosnia and Herzegovina

Canada

Cape Verde

Colombia

Costa Rica

Djibouti

Ecuador

Former Yugoslav Republic of Macedonia

Gabon

Georgia

Guinea-Bissau

Honduras

Iceland

Kyrgyzstan

Liberia

Liechtenstein

Mexico

Moldova

Mongolia

▼B

Montenegro

Mozambique

Namibia

Nepal

New Zealand

Nicaragua

Norway

Panama

Paraguay

Philippines

Rwanda

San Marino

Serbia

Seychelles

South Africa

Switzerland (including Büsingen and Campione d'Italia)

Timor-Leste

Turkey

Turkmenistan

Ukraine

Uruguay

Uzbekistan

Venezuela

Part 3 — Conditions and requirements for using this general export authorisation

(1) This general export authorisation may not be used if:

(a) the exporter has been prohibited from using this general export authorisation in accordance with Article 8(1) of Regulation (EC) No 1236/2005;

(b) the competent authorities of the Member State in which the exporter is resident or established, have informed the exporter that the goods in question are or may be intended, in their entirety or in part, either for re-export to a third country or to be used for the purpose of capital punishment in a third country;

(c) the exporter knows or has reasonable grounds to believe that the goods in question are intended, in their entirety or in part, either for re-export to a third country or to be used for the purpose of capital punishment in a third country;

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(d) the relevant goods are exported to a customs free zone or free warehouse which is located in a destination covered by this general export authorisation;

(e) the exporter is the manufacturer of the medicinal products in question and has not made a legally binding agreement with the distributor requiring the latter to make all supplies and transfers subject to the conclusion of a legally binding agreement requiring, preferably subject to a dissuasive contractual penalty, the customer

(i) not to use any of the goods received from the distributor for capital punishment;

(ii) not to supply or transfer any of these goods to a third party, if the customer knows or has reasonable grounds to believe that the goods are intended to be used for the purpose of capital punishment; and

(iii) to impose the same requirements on any third party to which the customer might supply or transfer any of these goods.

(f) the exporter is not the manufacturer of the medicinal products in question and has not obtained a signed end-user declaration from the end-user in the country of destination;

(g) the exporter of medicinal products has not concluded a legally binding agreement with the distributor or end-user requiring, preferably subject to a dissuasive contractual penalty, the distributor or, if the agreement was concluded by the end-user, the end-user to obtain prior authorisation from the exporter for

(i) any transfer or supply of any part of the shipment to a law enforcement authority in a country or territory that has not abolished capital punishment;

(ii) any transfer or supply of any part of the shipment to a natural or legal person, entity or body procuring relevant goods for or providing services involving use of such goods to such a law enforcement authority, and

(iii) any re-export or transfer of any part of the shipment to a country or territory that has not abolished capital punishment; or

(h) the exporter of goods other than medicinal products has not concluded a legally binding agreement referred to in point (g), with the end-user.

(2) Exporters that use this general export authorisation EU GEA 1236/2005 shall notify the competent authorities of the Member State where they are resident or established of their first use of this general export authorisation no later than 30 days after the date when the first export took place.

Exporters shall also report in the customs declaration the fact that they are using this general export authorisation EU GEA 1236/2005 by indicating in box 44 the relevant code found in the TARIC database.

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(3) Reporting requirements attached to the use of this general export authorisation and any additional information that the Member State from which the export is made might require on items exported under this general export authorisation are defined by Member States.

A Member State may require exporters resident or established in that Member State to register prior to the first use of this general export authorisation. Without prejudice to Article 8(1) of Regulation (EC) No 1236/2005, registration shall be automatic and acknowledged by the competent authorities to the exporter without delay and in any case within ten working days of receipt.

(*) Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (OJ L 200, 30.7.2005, p. 1).'

▼B

ANNEX III

‘ANNEX VI

AUTHORISATION FORM FOR THE SUPPLY OF BROKERING SERVICES REFERRED TO IN ARTICLE 9(1)

Technical specification:

The following form shall measure 210 × 297 mm with a maximum tolerance of 5 mm less and 8 mm more. The boxes are based on a unit of measurement of one tenth of an inch horizontally and one sixth of an inch vertically. The subdivisions are based on a unit of measurement of one tenth of an inch horizontally.

▼B

EUROPEAN UNION

Authorisation Brokering Services (Regulation (EC) No 1236/2005)

1

1 Applying broker (full name and address)
☐

AUTHORISATION FOR THE SUPPLY OF BROKERING SERVICES RELATED TO GOODS THAT COULD BE USED FOR TORTURE OR FOR CAPITAL PUNISHMENT (REGULATION (EC) No 1236/2005)

2 Natural person or legal person, entity or body exporting the goods from the relevant third country to thethird country of destination (full name and address)

3 Authorisation No
☐ Individual authorisation ☐ Global authorisation

4 Expiry date

5 Consingnee in third country of destination (full name and address)
☐ End user ☐ Distributor ☐ Other

6 Third country where goods are located | Country code

7 Third country of destination | Country code

8 End user of distributor in third country of destination (full name and address) if different from consignee
☐ End user ☐ Distributor

9 Member State in which the broker is resident or established

If there is no such Member State, Member State of which the broker is a national or incorporated legal person, entity or body

1

10 Third parties involved (e.g. agent)

Issuing authority

11 End use (where appropriate)

12 Precise information on the location of the goods in the third country where the goods are located

13 Description of item

14 Item No **1**

15 HS Code

16 Quantity

17 Currency and value

13 Description of item

14 Item No **2**

15 HS Code

16 Quantity

17 Currency and value

13 Description of item

14 Item No **3**

15 HS Code

16 Quantity

17 Currency and value

18 Specific requirements and conditions

19 The undersigned certifies that pursuant to Article 9(1) of Regulation (EC) No 1236/2005 and subject to the requirements, conditions and procedures set out in this form and the attachement(s) to which it refers, the competent authority has authorised brokering services concerning the goods described in box 13.

20 Number of attachments

Done at (place, date)

Name (typed or capitals)

Signature: Stamp of issuing authority

▼B

EUROPEAN UNION

Report on use of authorised quantities		AUTHORISATION FOR THE SUPPLY OF BROKERING SERVICES RELATED TO GOODS THAT COULD BE USED FOR TORTURE OR FOR CAPITAL PUNISHMENT (REGULATION (EC) No 1236/2005)	
Note: In column 21 write the quantity still available in part 1 and the quantity deducted on this occasion in part 2		3 Authorisation No	
14 Item No	21 Net quantity (Net mass or other unit) with indication of unit	22 Date of deduction	23 Reference document (State, type, number)
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Explanatory notes to the form

"Authorisation for the supply of brokering services related to goods that could be used for torture or for capital punishment (Council Regulation (EC) No 1236/2005 (*))"

This authorisation form shall be used to issue an authorisation for brokering services in accordance with Regulation (EC) No 1236/2005.

The issuing authority is the authority defined in point (h) of Article 2 of Regulation (EC) No 1236/2005. It is an authority that is included in the list of competent authorities in Annex I to that Regulation.

Box 1	*Applying broker*	Please indicate the name and full address of the applying broker. Broker is defined in point (l) of Article 2 of Regulation (EC) No 1236/2005.
Box 3	*Authorisation No*	Please fill out the number and tick the appropriate box indicating whether the authorisation is an individual or global one (see points (p) and (q) of Article 2 of Regulation (EC) No 1236/2005 for the definitions).
Box 4	*Expiry date*	Please state day (two digits), month (two digits) and year (four digits). The period of validity of an individual authorisation is from three months to twelve months and that of a global authorisation from one year to three years. When the period of validity comes to an end an extension can be requested, if necessary.
Box 5	*Consignee*	Please indicate, in addition to the name and address, whether the consignee in the third country of destination is an end-user, a distributor as referred to in point (r) of Article 2 of Regulation (EC) No 1236/2005 or a party having another role in the transaction. If the consignee is a distributor but also uses part of the shipment for a specific end-use, please tick both "Distributor" and "End-user" and mention the end-use in box 11.
Box 6	*Third country where the goods are located*	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009 of the European Parliament and of the Council (**). See Commission Regulation (EU) No 1106/2012 (***).

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Box 7	*Third country of destination*	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009. See Regulation (EU) No 1106/2012.
Box 9	*Issuing Member State*	Please state in the appropriate line both the name of the Member State concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009. See Regulation (EU) No 1106/2012.
Box 11	*End use*	Please give a precise description of the use that will be made of the goods and also indicate whether the end user is a law enforcement authority as defined in point (c) of Article 2 of Regulation (EC) No 1236/2005 or a supplier of training on the use of the brokered goods. Leave blank if the brokering services are supplied to a distributor, unless the distributor itself uses part of the goods for a specific end-use.
Box 12	*Precise location of the goods in the third country from which they will be exported*	Please describe the whereabouts of the goods in the third country from which they will be supplied to the person, entity or body mentioned in box 2. The location must be an address in the country mentioned in box 6 or similar information describing the whereabouts of the goods. Note that it is not allowed to put a post office box number or similar postal address.
Box 13	*Description of item*	The description of the goods should include a reference to a specific item of Annex III or IIIa to Regulation (EC) No 1236/2005. Please consider including data on packaging of the goods concerned. If there is not sufficient space in box 13, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 20.
Box 14	*Item No*	This box needs to be completed on the back of the form only. Please ensure that the Item No corresponds to the printed item number in Box 14 found next to the description of the relevant item on the view side.

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Box 15	*HS code*	The HS code is a customs code assigned to the goods in the Harmonised System. Where the code from the EU Combined Nomenclature is known, that code may be used instead. See Commission Implementing Regulation (EU) 2015/1754 (****) for the current version of the Combined Nomenclature.
Box 17	*Currency and value*	Please indicate the value and currency using the price that is payable (without converting it). If that price is not known, the estimated value should be stated, preceded by the mention EV. The currency has to be indicated using the alphabetic code (ISO 4217:2015).
Box 18	*Specific requirements and conditions*	Box 18 concerns the item 1, 2 or 3 (please specify where appropriate) described in the boxes 14 to 16 preceding it. If there is not sufficient space in box 18, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 20.
Box 20	*Number of attachments*	Please indicate the number of attachments, if any (see explanations to boxes 13 and 18)

(*) Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (OJ L 200, 30.7.2005, p. 1).

(**) Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.6.2009, p. 23).

(***) Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries of countries and territories (OJ L 328, 28.11.2012, p. 7).

(****) Commission Implementing Regulation (EU) 2015/1754 of 6 October 2015 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ L 285, 30.10.2015, p. 1).'

▼B

ANNEX IV

‘ANNEX VII

AUTHORISATION FORM FOR THE SUPPLY OF TECHNICAL ASSISTANCE REFERRED TO IN ARTICLE 9(1)

Technical specification:

The following form shall measure 210 × 297 mm with a maximum tolerance of 5 mm less and 8 mm more. The boxes are based on a unit of measurement of one tenth of an inch horizontally and one sixth of an inch vertically. The subdivisions are based on a unit of measurement of one tenth of an inch horizontally.

▼B

EUROPEAN UNION

Authorisation technical Assistance (Regulation (EC) No 1236/2005)

1 | 1 Applying supplier of technical assistance (full name and address) ☐

AUTHORISATION FOR THE SUPPLY OF TECHNICAL ASSISTANCE RELATED TO GOODS THAT COULD BE USED FOR TORTURE OR FOR CAPITAL PUNISHMENT (REGULATION (EC) No 1236/2005)

2 Natural person or legal person, entity or body to whom the technical assistance will be supplied (full name and address)

3 Authorisation No

Based on Article ☐ 3 ☐ 4 ☐ 7a ☐ ▶(1) 7e ◀

4 Expiry date

5 The natural or legal person, entity or body mentioned at 2 is
- ☐ A museum
- ☐ A law enforcement agency
- ☐ An institution providing education or training
- ☐ A supplier of repair services, maintanace or other technical services related to the goods to which the technical assistance relates
- ☐ A manufacturer of the goods to which
- ☐ None of the above. Please specify the activity of the natural or legal person, entity or body at 2:

6 Third country or Member State to which the technical assistance will be supplied (name and code)

7 This authorisation applies to
- ☐ A single supply of technical assistance
- ☐ Technical assistance provided during a period of time. Please specify the period concerned:

8 Member State in which the supplier of technical assistance is resident or established

If there is no such Member State, Member State of which the supplier of technical assistance is a national or incorporated legal person, entity or body

1

9 Description of the type of googd to which the technical assistance relates

Issuing authority

10 Description of the technical assistance that is authorised

11 If the person, entity or body mentioned at 2 is a person, entity or body in a third country, the technical assistance will be supplied
☐ from the EU to that third country ☐ by staff in that third country ☐ from another third country (please specify)

12 Description of any training on the use of the goods to which the technical assistance relates, which will be supplied to the natural or legal person, entity or body mentioned at 2

13 The training on the use of goods mentioned at 9 will be supplied by:
- ☐ The supplier of technical assistance mentioned at 1
- ☐ A third country acting on behalf of or in association with the supplier of technical assistance (full name and address)

14 Specific requirements and conditions

15 The undersigned certifies that pursuant to Article 9(1) of Regulation (EC) No 1236/2005 and subject to the requirements, conditions and procedures set out in this form and the attachment(s) to which it refers, the competent authority has authorised the supply of technical assistance concerning the goods described in box 9.

16 Number of attachments

Done at (place, date)

Name (typed or capitals)

Signature: (Stamp of issuing authority)

▶(1) C1

▼B

Explanatory notes to the form

"Authorisation for the supply of technical assistance related to goods that could be used for torture or for capital punishment Council (Regulation (EC) No 1236/2005 (*))**"**

This authorisation form shall be used to authorise a supply of technical assistance in accordance with Regulation (EC) No 1236/2005. If the technical assistance accompanies an export for which an authorisation is granted by or in accordance with Regulation (EC) No 1236/2005, this form should not be used, except in the following cases:

— the technical assistance relates to goods listed in Annex II to Regulation (EC) No 1236/2005 (see Article 3(2)); or

— the technical assistance relating to goods listed in Annex III or in Annex IIIa to Regulation (EC) No 1236/2005 goes beyond what is necessary for the installation, operation, maintenance or repair of the exported goods (see Article 9(2) and, as regards goods listed in Annex IIIa, Part 1 of the Union General Export Authorisation EU GEA 1236/2005 at Annex IIIb to Regulation (EC) No 1236/2005).

The issuing authority is the authority defined in point (h) of Article 2 of Regulation (EC) No 1236/2005. It is an authority that is included in the list of competent authorities in Annex I to that Regulation.

Authorisations shall be issued on this single page form with attachments as necessary.

Box 1	*Applying supplier of technical assistance*	Please indicate the applicant's name and full address. Supplier of technical assistance is defined in point (m) of Article 2 of Regulation (EC) No 1236/2005. If the technical assistance accompanies an export for which an authorisation is granted, please also indicate the applicant's customs number, if possible, and indicate the number of the related export authorisation in box 14.
Box 3	*Authorisation No*	Please fill out the number and tick the appropriate box indicating the Article of Regulation (EC) No 1236/2005 on which the authorisation is based.
Box 4	*Expiry date*	Please state day (two digits), month (two digits) and year (four digits). The period of validity of an authorisation is from three months to twelve months. When the period of validity comes to an end an extension can be requested, if necessary.
Box 5	*Activity of the natural or legal person, entity or body mentioned at 2*	Please indicate the main activity of the person, entity or body to which the technical assistance will be supplied. The term law enforcement authority is defined in point (c) of Article 2 of Regulation (EC) No 1236/2005. If the main activity is not in the list, tick "None of the above" and describe the main activity using generic words (e.g. wholesaler, retailer, hospital).

▼B

Box 6	*Third country or Member State to which the technical assistance will be supplied*	Please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009 of the European Parliament and of the Council (**). See Commission Regulation (EU) No 1106/2012 (***). Note that in box 6 a Member State should only be mentioned, if the authorisation is based on Article 4 of Regulation (EC) No 1236/2005.
Box 7	*Type of authorisation*	Please indicate whether the supply of technical assistance is provided during a particular period and, if so, state the period in days, weeks or months during which the supplier of technical assistance has to respond to requests for advice, support or training. A single supply of technical assistance concerns one specific request for advice or support or a specific training (even if it concerns a course given during several days).
Box 8	*Issuing Member State*	Please state in the appropriate line both the name of the Member State concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009. See Regulation (EU) No 1106/2012.
Box 9	*Description of the type of goods to which the technical assistance relates*	Please describe the type of goods concerned by the technical assistance. The description should include a reference to a specific item of Annex II, III or IIIa to Regulation (EC) No 1236/2005.
Box 10	*Description of the technical assistance that is authorised*	Please describe the technical assistance in a clear and precise manner. Insert a reference to the date and number of an agreement concluded by the supplier of technical assistance or attach such an agreement, where appropriate.
Box 11	*Mode of supply*	Box 11 should not be filled out if the authorisation is based on Article 4 of Regulation (EC) No 1236/2005. If the technical assistance is supplied from a third country other than the third country where the recipient is resident or established, please state both the name of the country concerned and the relevant country code taken from the codes established pursuant to Regulation (EC) No 471/2009. See Regulation (EU) No 1106/2012.

▼B

Box 12	*Description of training on the use of goods to which the technical assistance relates*	Please indicate whether the technical support or technical service covered by the definition of technical assistance in point (f) of Article 2 of Regulation (EC) No 1236/2005 is accompanied by training for users of the relevant goods. Please state which type of users will receive such training and specify the objectives and contents of the training programme.
Box 14	*Specific requirements and conditions*	If there is not sufficient space in box 14, please continue on an attached blank sheet, mentioning the authorisation number. Please indicate the number of attachments in box 16.
Box 16	*Number of attachments*	Please indicate the number of attachments, if any (see explanations to boxes 10 and 14)

(*) Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment (OJ L 200, 30.7.2005, p. 1).

(**) Regulation (EC) No 471/2009 of the European Parliament and of the Council of 6 May 2009 on Community statistics relating to external trade with non-member countries and repealing Council Regulation (EC) No 1172/95 (OJ L 152, 16.6.2009, p. 23).

(***) Commission Regulation (EU) No 1106/2012 of 27 November 2012 implementing Regulation (EC) No 471/2009 of the European Parliament on Community statistics relating to external trade with non-member countries, as regards the update of the nomenclature of countries of countries and territories (OJ L 328, 28.11.2012, p. 7).'